

CITY OF DANBURY

155 DEER HILL AVENUE DANBURY, CONNECTICUT 06810

PLANNING COMMISSION (203) 797-4525 (203) 797-4586 (FAX)

MINUTES DECEMBER 6, 2006 ^^^^^^^^^

The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:30 PM.

Present were John Deeb, Arnold Finaldi Jr. and Alternate Joel Urice. Also present was Associate Planner Jennifer Emminger.

Absent were Kenneth Keller, Matthew Kennedy, Edward Manuel and Alternate Paul Blaszka.

Chairman Finaldi asked Mr. Urice to take Mr. Keller's place for the items on tonight's agenda.

Mr. Urice made a motion to table the acceptance of the minutes as they are not yet complete. Mr. Deeb seconded the motion and it was passed unanimously.

Chairman Finaldi said there were no new public hearings scheduled for this evening, so they would go right into the Continuations of Public Hearings.

CONTINUATION OF PUBLIC HEARINGS:

Al Suprenant, Agent - Application for three lot subdivision (1.384 acres) in the RA-8 Zone - "Fairlawn Avenue Subdivision" - 18 Fairlawn Ave. (#G14337) - Subdivision Code #05-02. This same application was approved 7/6/05 but the mylar was not recorded. *Public hearing opened 11/15/06 - 35 days will be up 12/20/06.*

Mrs. Emminger explained that this had been continued from the last meeting so that she could review the changes that were made to the Zoning Regulations. She said the changes that were made did not impact the subdivision; it just required one small revision to the plan. She said we did receive the revised plans and the correction has been made. Mr. Urice asked if this required EIC approval and Mrs. Emminger said it did not. There was no further discussion.

Chairman Finaldi asked if there was anyone to speak in opposition and there was no one.

Mr. Deeb made a motion to close the public hearing. Mr. Urice seconded the motion and it was passed unanimously. Mr. Urice then made a motion to move this matter to number three under the Old Business on tonight's agenda. Mr. Deeb seconded the motion and it was passed unanimously.

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Roche Development LLC as Contract Purchaser – Application for eight (8) lot subdivision (15.236 acres) "Cannonball Estates" in the RA-40 Zone – Cannonball Dr. (#E19005) – Subdivision Code #06-08. This application has already received EIC approval. Public hearing opened 9/6/06 – 35 days was up 10/11/06 – 35 day extension granted to 11/15/06 – Additional extension granted to 12/6/06.

Attorney Paul Jaber and Project Engineer John LaFonte spoke in favor of this. The applicant, Gerald Roche was also present. Attorney Jaber said this was continued pending receipt of the Engineering Dept. final report which has been received. The report requested sidewalks be installed but they do not think they are necessary as they will not connect to any other sidewalks. Additionally, they are not close enough to a school to require them and most of the time with subdivisions of this size the residents don't want sidewalks in an effort to maintain the rural character of the area. Attorney Jaber them said it is ultimately the Commission's decision. Mrs. Emminger then said that the Engineering Dept. determined that the post-runoff is less than the pre-development runoff was, so this is not making the situation worse. It does comply with the City standards. They did pay extra attention to the neighbor's concerns about the drainage when reviewing the plans. Mr. Urice asked about deed restriction for the proximity to the Airport. Mrs. Emminger said that would be included as a condition in the resolution of decision.

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mr. Urice made a motion to close the public hearing. Mr. Deeb seconded the motion and it was passed unanimously. Mr. Urice then made a motion to move this matter to number four under the Old Business. Mr. Deeb seconded the motion and it was passed unanimously.

Chairman Finaldi then announced they would be changing the order of the next two matters and discussing "Savannah Hills" before "Burger King".

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Sycamore Trails Group LLC – Application for twelve (12) lot subdivision (33.49 acres) "Savannah Hills" in the RA-80 Zone – 193-207 Great Plain Rd. (#J04084, #J04085, #J05099, #J05100) – Subdivision Code #06-09. This application has not yet received EIC approval. Public hearing opened 11/1/06 – 35 days will be up 12/06/06.

Mrs. Emminger said we had received an extension to January from the applicant. Mike Mazzucco said they had met with the Planning Staff and went over the issues. That resulted in them submitting revisions today, with some changes to the drainage and some cleanup work. They did discuss the possibility of combining driveways but it does not seem to be possible without obtaining a variance from the ZBA. They revised some of the lots to change some driveway design and added detention basins in several places eliminating needing to use the wetlands for that purpose. Mrs. Emminger asked if they would be using the soil that is there as fill since it is so rocky. Mr. Mazzucco said they would crush it first. Mrs. Emminger asked if they would have to bring fill in to be able to construct the road as that would be a disruption to the neighborhood. Mr. Mazzucco said it would actually be a balance between the cut and fill. Mrs. Emminger asked him to give them an analysis of the amount of prep work to be done before the road is built. She then mentioned the blasting analysis we had been provided for the Damia project on Clapboard Ridge Rd. and suggested they might request one for this project. Mr. Mazzucco asked exactly what this analysis consisted of. Mrs. Emminger explained

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distances to the wells, foundations, septic systems. Mr. Mazzucco asked if he could have a copy of the one that she had referred to. Chairman Finaldi asked about sight distances pulling out of Old Town Rd. and Mr. Urice asked what line of sight would be exactly. Mr. Mazzucco said it would be 200 ft. Mrs. Emminger asked if the existing utility cabinets would affect the sight line. Mr. Mazzucco said the cabinets are far enough back so they will not interfere. He added that they would prefer to NOT do the sidewalks along Great Plain especially because the neighbors do not want them. Mrs. Emminger said they would disturb the wetlands. Chairman Finaldi and Mr. Urice said there is no reason for them since they would lead to nowhere. Chairman Finaldi mentioned that if any of the members wanted to do an on-site now would be the time since it staked out because EIC had requested it. Mr. Mazzucco said they had responded to all of the comments that they have received. He briefly described the area as being shielded by vegetation and saying this may not be visible from the road. He spoke briefly about the revisions they had made to the open space. He submitted some photos to demonstrate the existing drainage (designated Exhibits A-E).

Chairman Finaldi asked if there was anyone in opposition.

Lorraine Seder, 224 Great Plain, said the applicant met with the neighbors and explained how he would address the runoff. She said their concern was that the level of existing wetlands would be maintained. She said she thought Mr. Keller had proposed they have a deed restriction to preserve the ridgeline. Since the maintenance of the filtration system would be the homeowner's association, she questioned if there would there be a checking point. She said although this is private property, if the neighbors would allow it, creating walking trails would be a great idea. She said the meeting went well, and they were pleased with what Mr. Cordeiro had to say. Mr. Urice questioned her previous opposition. She said obviously she would rather see a park, but since that is not going to happen, she would rather see it developed in a controlled manner with safeguards to protect the sensitivity of the environment.

Debbie Legg, 215 Great Plain Rd., said she is now on the fence, they really appreciate Mr. Cordeiro's help and the installation of additional drainage. She expressed concern that the hillside outside her front door will turn into a mudslide if they touch it. She also asked if there could be a different name than Cordeiro Dr., something more in keeping with the other street names in the immediate area. She then submitted some photos and old documentation regarding the location of their driveways, which was designated Exhibit F.

Mr. Mazzucco said he had put a note on the plan regarding the trails idea. Mrs. Emminger said they had discussed the possibility of connecting this open space to the Landsiedel open space, but that might not be possible. There was no further discussion.

Mr. Deeb made a motion to continue the hearing. Mr. Urice seconded the motion and it was passed unanimously.

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North Street Shopping Center – Application for Special Exception/Revised Site Plan to allow use ("Burger King") generating in excess of 500 vehicle trips per day – 1 Padanaram Rd. (#H11258) – SE #500. This application has already received EIC approval. Public hearing opened 9/6/06 – 35 days was up 10/11/06 – 35 day extension granted to 11/15/06. – Additional extension granted to 12/6/06.

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Attorney Jim Jowdy said all of the City Departments have signed off on this. He described the changes they made to the plans and then said traffic has been the biggest issue. The use is a major traffic generator and because this is a long standing existing business (23 yrs) they don't have to guess what kind of traffic this use will generate. By moving this across the street they anticipate picking up more of the existing traffic within the shopping center. They expect to get approximately 50% of their traffic from pass-by traffic that is already in the area. No one is going to come across town just to eat there. He said two viable access routes exist for the drive-thru traffic which will allow them to handle the traffic more efficiently. He said the next concern is what will go into the existing site once they move out. If someone wanted to make any changes to what exists there now, they would have to come back to Planning Commission. The retaining wall and the access/egress issues make this not so valuable a site. They are leaving this site no matter what because it just cannot support the business. He said the proposed State improvements to the roadway could take up to 2008 to be completed.

An unidentified engineer from Urbitran Associates spoke about standard traffic engineering practice with regard to the preparation of the traffic study. He said the recommendations made in traffic study are consistent with the ITE standards but also take the State's plans into consideration. Another engineer, identified himself as Matt Lorenz, said he assisted in the preparation of the traffic study. He said he would try to respond to the City Traffic Engineer's comments. He said the traffic signals will be coordinated and it is their opinion that an additional lane is not going to help. Items one and five are not possible for applicant to provide without being in violation of the parking requirements. Regarding item 2, the road widening, the design is consistent with standards. Item 3 about installing a sidewalk after the road widening is done could be difficult since the easement to the State has already been done and is considered sufficient. Chairman Finaldi questioned why they couldn't go back to the way the access was previously at the intersection of North St. and Padanaram Ave. Paul Fagan (Land Surveyor) said that situation created a safety hazard, caused flow problems and eliminated parking spaces.

Allan Rogers, the Burger King franchisee since 1976, said they want out of the present location. He is bothered by the Commission's concern that another fast food restaurant will go in their existing site. He said that is not really something to worry about as there are many undesirable factors about this property. The access/egress, the parking is not convenient to the front door; the drive-thru lane is of the worst design as there is no exit once you are in it. He said they cannot get out of there fast enough as they are concerned about the retaining wall letting go. It already weeps and is starting to give out. He added that it will take a substantial investment to repair it and not many fast food businesses are going to be willing to spend that kind of money. The building itself is outdated and has far exceeded its usefulness. They want out and he does not think anyone else is going to want to go in. He said they do want to continue to do business in Danbury because they love Danbury.

Chairman Finaldi asked if there was anyone to speak in opposition and there was no one.

Mr. Urice made a motion to close the public hearing. Mr. Deeb seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Stone Ridge Development LLC – Application for Special Exception to allow Storage of Construction Equipment in the IL-40 Zone – 7 Starr St. (#J15226) – SE #650. *Public hearing closed 11/15/06 – 65 days will be up 1/19/07.*

Mrs. Emminger distributed a resolution of decision. She said the applicant addressed all of the Commission's concerns as well as satisfying the City Departments. Mr. Urice made a motion to approve this application per the resolution dated yesterday. Mr. Deeb seconded the motion and it was passed unanimously.

Artel Engineering Group as Agent – Request for Revision to Floodplain Permit (issued 8/20/03) – "Elmer's Diner", 22-24 Padanaram Rd. (#H10124 & #H10125) – SP #00-09.

Mr. Urice made a motion to table this matter. Mr. Deeb seconded the motion and it was passed unanimously.

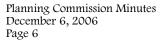
Al Suprenant, Agent - Application for three lot subdivision (1.384 acres) in the RA-8 Zone - "Fairlawn Avenue Subdivision" - 18 Fairlawn Ave. (#G14337) - Subdivision Code #05-02. This same application was approved 7/6/05 but the mylar was not recorded. *Public hearing opened* 11/15/06 - 35 days will be up 12/20/06.

Mrs. Emminger distributed a resolution of decision. She said the applicant has been made aware that he must file the mylar as soon as possible after it is signed by the Chairman and he has assured her that he will be sure to do that. Mr. Urice made a motion to approve this application per the resolution dated yesterday. Mr. Deeb seconded the motion and it was passed unanimously.

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Roche Development LLC as Contract Purchaser – Application for eight (8) lot subdivision (15.236 acres) "Cannonball Estates" in the RA-40 Zone – Cannonball Dr. (#E19005) – Subdivision Code #06-08. This application has already received EIC approval. Public hearing opened 9/6/06 – 35 days was up 10/11/06 – 35 day extension granted to 11/15/06 – Additional extension granted to 12/6/06.

Mrs. Emminger distributed a resolution of decision. She said the language regarding the deed restriction is included as discussed: "Prior to the issuance of a Certificate of Zoning Compliance by the Zoning Enforcement Officer for any residential structure within the subdivision: The applicant shall obtain evidence from the Planning and Zoning Department stating that the following language "The grantor reserves to itself and to its successors for the benefit of the Danbury Municipal Airport, the right of said Airport to create sounds incidental to the operation of aircraft or rotocraft in said airspace above the premises" has been incorporated into the deed of each subdivided lot and said evidence shall be presented to the Zoning Enforcement Officer." Mr. Urice made a motion to approve this application per the resolution dated today. Mr. Deeb seconded the motion and it was passed unanimously.



NEW BUSINESS:

Omnipoint Communications Inc./T-Mobile – Application for Special Exception for a Wireless Telecommunications Facility on an Existing Sign – 78 Federal Rd. (#L09025) – SE #640. *Public hearing scheduled for 1/3/07.*

80 Mill Plain Rd. LLC – Application for Special Exception to permit Retail/Warehouse generating more than 500 trips per day – 80 Mill Plain Rd (#D14003) – SE #652. *Public hearing scheduled for 2/7/07.*

Jim Setaro/OSR Properties LLC – Application for Proposed Two (2) lot Resubdivision (1.12 acres) in the RA-8 Zone – 1 Old Shelter Rock Rd. (#K13069) – Subdivision Code #06-10. Public hearing scheduled for 1/3/07.

<u>Parker Bohn – Application for Three (3) lot Subdivision (8.68 acres) "Parker's Estates" in the RA-80 Zone – 168 Middle River Rd. (#C09016) - Subdivision Code #05-07. Public hearing scheduled for 2/7/07.</u>

Chairman Finaldi said these applications would be on file in Planning & Zoning Office.

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REFERRALS:

<u>8-24 Referral/February 7th CC Agenda Item 26 – Eagle Road Center LLC Transfer of Property to City of Danbury. *Tabled pending receipt of additional information.*</u>

<u>8-24 Referral/November 2006 CC Added Agenda Item – Private Property Easement/Sauer Memorial Park.</u>

Mr. Urice made a motion to table both of these matters. Mr. Deeb seconded the motion and it was passed unanimously.

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OTHER MATTERS:

<u>Letter from Attorney Neil Marcus – Request for Lot Line Revision for Subdivision #68~19 originally approved 2/5/69. Tabled at previous meeting.</u>

Mr. Urice made a motion to this until the next regular meeting. Mr. Deeb seconded the motion and it was passed unanimously.

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Chairman Finaldi noted that the Regular Meeting Schedule for 2007 had been sent to all of the members. Under For Reference Only there were listed two Applications for Floodplain Permits.

At 10:15 PM, Mr. Deeb made a motion to adjourn. Mr. Urice seconded the motion and it was passed unanimously.